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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION**

VAUGHN KERKORIAN and DAVID TURNER, individually and on behalf of all others similarly situated,

Case No. 4:18-cv-07815-HSG

Plaintiffs.

**STIPULATION AND ORDER
MODIFYING BRIEFING SCHEDULE
FOR DEFENDANT NNA'S MOTIONS
TO DISMISS OR TRANSFER IN THE
BASHAW AND KERKORIAN ACTIONS**

NISSAN NORTH AMERICA, INC. and
NISSAN MOTOR CO., LTD..

Date: April 11, 2019
Time: 2:00 p.m.
Courtroom: 2, 4th Floor
Judge: Hon. Haywood S. Gilliam, Jr.

Defendants.

1 WHEREAS, on November 30, 2018, Plaintiff Cathy Bashaw filed a putative class action
2 Complaint against Defendants Nissan North America, Inc. (“NNA”) and Nissan Motor Co., Ltd.
3 (“NML”) (collectively, “Defendants”) (the “*Bashaw* action”);

4 WHEREAS, on December 31, 2018, Plaintiffs Vaughn Kerkorian and David Turner filed
5 a putative class action Complaint against Defendants captioned *Kerkorian v. Nissan North*
6 *America, Inc. et al.*, No. 4:18-cv-07815-HSG (N.D. Cal. filed Dec. 31, 2018) (the “*Kerkorian*
7 action”);

8 WHEREAS, on January 3, 2019, Plaintiff Bashaw filed a Motion for Consolidation and
9 Appointment of Interim Class Counsel (*Bashaw* Dkt. 12) (“Motion for Consolidation”), which,
10 among other things, seeks consolidation of this action with the *Kerkorian* action;

11 WHEREAS, on January 15, 2019, Defendant NNA filed in the *Bashaw* and *Kerkorian*
12 actions a Motion to Dismiss or Transfer for Improper Venue or, In the Alternative, Transfer for
13 Convenience (“Motions to Transfer”) (*Bashaw* Dkt. No. 19; *Kerkorian* Dkt. No. 23), and set with
14 the Court’s permission March 14, 2019 as the hearing date;

15 WHEREAS, Plaintiffs’ oppositions to the Motions to Transfer are due February 21, 2019,
16 and NNA’s reply briefs are due February 28, 2019;

17 WHEREAS, on February 11, 2019, the Court continued the hearing on the pending
18 Motion for Consolidation and Motions to Transfer from March 14, 2019 to April 11, 2019;

19 WHEREAS, Plaintiffs and NNA have met and conferred through counsel and have agreed
20 to modify the briefing schedule for NNA’s Motions to Transfer, as set forth below;

21 WHEREAS, the stipulated modifications to the briefing schedule will not alter the April
22 11, 2019, hearing date or otherwise impact any other deadlines already set by the Court;

23 WHEREAS, by entering into this Stipulation, NNA does not waive, and hereby preserves,
24 any and all defenses, objections, and motions available to it under federal or state law, including
25 without limitation any defenses that it may raise under Federal Rule of Civil Procedure 12(b) or
26 any other due order of pleadings motion;

27 THEREFORE, IT IS HEREBY STIPULATED by the parties, through their respective
28 counsel, as follows:

- 1 1) Plaintiffs in the *Bashaw* and *Kerkorian* actions shall file their opposition(s) to the
2 pending Motions to Transfer on or before February 28, 2019;
3 2) Defendant NNA shall file its reply briefs in support of the pending Motions to
4 Transfer on or before March 14, 2019;
5 3) If the Court denies this Stipulation prior to Plaintiffs' filing of their opposition brief(s),
6 NNA agrees not to argue Plaintiffs waived their opposition to the Motions to Transfer
7 if Plaintiffs file their opposition brief(s) within three days of such denial.

8 Dated: February 19, 2019

9 BURSOR & FISHER, P.A.

10 By: /s/ Joel D. Smith

11 L. Timothy Fisher (State Bar No. 191626)
12 Joel D. Smith (State Bar No. 244902)
13 Frederick J. Klorczyk III (State Bar No. 320783)

14 Dated: February 19, 2019

15 DRINKER BIDDLE & REATH LLP

16 By: /s/ Paul J. Riehle

17 Paul J. Riehle
18 E. Paul Cauley Jr. (*pro hac vice pending*)
19 Matthew J. Adler

20 Attorneys for Defendant
21 NISSAN NORTH AMERICA, INC.

22 **Attestation Pursuant to Civil Local Rule 5-1(i)**

23 Pursuant to Civil Local Rule 5-1(i), I, Joel D. Smith, hereby attest that I have obtained
24 concurrence in the filing of this document from the other signatory to this document.

25 I declare under penalty of perjury under the laws of the United States of America that the
26 foregoing is true and correct. Executed this 19th day of February 2019 in Walnut Creek,
27 California.

28 By: /s/ Joel D. Smith
29 Joel D. Smith

ORDER

Pursuant to Stipulation, IT IS SO ORDERED.

Date: February 20, 2019

Haywood S. Gill Jr.
Hon. Haywood S. Gilliam, Jr.

Hon. Haywood S. Gilliam, Jr.

UNITED STATES DISTRICT JUDGE